IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 46 OF 1991

Shri Rajman D. Jhalwar Foundation,
Pune. ...Applicant

V/s.

The Commissioner of Income-tax,
Pune. ...Respondent

Mr.V.H. Patil for Applicant.
Mr.A.N. Kotangale for Respondent.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JULY 12, 2005.

P.C. :-

. This is the reference under Section 256(1) of the Income Tax Act made by the Income Tax Appellate Tribunal ('The Tribunal' for short). The question referred by the Tribunal is arising out of its order passed in ITA No.1340 & 1341/PN/1985 for the Assessment Years 1976-77 & 1979-80. The same reads as under :-

1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the assessee-trust was not wholly for charitable purposes and that the

income from said trust was not exempt from tax in accordance with the provisions of sec.11 of the Income-tax Act, 1961.

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee-trust was not an educational institution existing solely for the purpose of education and not for the purposes of profit and as such the income was not exempt u/s.10(22) of the I.T.Act, 1961."

2. Learned Advocate Mr.Patil did not press the second question mentioned hereinabove; referred by the Tribunal, for our opinion. In that view of the matter, second question needs no adjudication. The same is, thus, returned unanswered.

3. So far as the first question is concerned, it is not in dispute that Assessee is a registered trust registered under the provisions of the Bombay Public Trust Act. The primary object of the assessee was just

to finance the students through scholarship awarded to the students to pursue their education. It's sole object was to provide assistance in cash and kind to the deserving students including poor students. The definition given under Section 2(15) is a inclusive definition. The activities of the assessee are charitable in nature as defined under Section 2(15), as such financial assistance to the students for their educational purposes, in our opinion, squarely and fairly fall under Section 11 of IT Act.

4. In that view of the matter, the first question referred to hereinabove is answered in negative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S. AGUIAR, J.) **(V.C. DAGA, J.)**